



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Region IX

Division of Medicaid & Children's Health Operations

90 Seventh Street, Suite 5-300 (5W)

San Francisco, CA 94103-6706

SEP 12 2011

Toby Douglas, Director
California Department of Health Care Services
1501 Capitol Avenue
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

Dear Mr. Douglas:

This letter is being sent as a companion to our approval of California State Plan Amendment (SPA) 11-012. This SPA was originally submitted to cap the maximum amount of Medical coverage for optional hearing aid benefits at \$1510 per beneficiary for each fiscal year. As you are aware, 42 CFR 430.10 requires that the State plan be a comprehensive written statement that describes the nature and scope of the State's Medicaid program and that contains all information necessary for CMS to determine whether the plan can be approved to serve as the basis for Federal financial participation (FFP) in the State program.

Please note that CMS reviews SPAs in the context of the overall State plan for consistency with the requirements of section 1902(a) of the Social Security Act. In reviewing coverage provisions, CMS must also independently review the corresponding State plan reimbursement provisions to determine whether payment methodologies comport with current regulation and statute. Our review of SPA 11-012 included a same page coverage review of the submitted pages, as well as a review of the reimbursement methodologies for each of the services being eliminated.

Based on our review, CMS has identified additional issues that we would like to bring to your attention as they are not in compliance with current regulations, statute, and CMS guidance. We welcome the opportunity to work with you and your staff to discuss options for resolving the concerns outlined below.

- The DME section that is listed on Attachment 3.1-A and 3.1-B indicates that DME is "covered when prescribed by a licensed practitioner". The regulations at 42 CFR §440.70(a)(2) require that home health services (including DME) be ordered by a physician as part of a written care plan. The State should amend the State Plan to indicate that only physicians can prescribe DME.
- The coverage provisions for Hearing Aids and Enteral Formulae are listed in page 14 of Limitation to Attachment 3.1-A submitted under SPA 11-012. Please identify

where in Attachment 4.19-B the reimbursement methodologies are described for these services. If the payment methodology is described on page 20a of Attachment 4.19-B of the current State Plan, please amend the State Plan to include the effective date of the fee schedule and the specific URL address for the fee schedule (instead of the DHCS Medi-Cal home page).

- The payment methodology for durable medical equipment found in pages 3a – 3f of Attachment 4.19-B was last updated in June 2007. Please confirm whether this language is still accurate.

Please respond to this letter no later than 90 days from the date of this letter with a corrective action plan describing how the State will resolve the issues identified above. Failure to respond timely will result in our initiation of the formal compliance process. During the 90 days, we are willing to provide any required technical assistance. If you have any questions, please contact Rodd Mas at 415-744-2978 or via email at rodd.mas@cms.hhs.gov.

Sincerely,



Gloria Nagle, Ph.D., MPA
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

cc: Vickie Orlich, California Department of Health Care Services
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